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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Working Group on the Right to Development on its nineteenth session (Geneva, 23 to 26 April 2018)

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I. Introduction

1. The present report was prepared pursuant to Human Rights Council resolution 9/3 in which the Council decided to renew the mandate of the Working Group until it had completed the tasks entrusted to it and that the Working Group would convene annual sessions of five working days and submit its reports to the Council.

2. The mandate of the Working Group on the Right to Development, as established by the Commission on Human Rights in its resolution 1998/72, is to monitor and review progress made in the promotion and implementation of the right to development as set out in the Declaration on the Right to Development (General Assembly resolution 41/128), at the national and international levels, providing recommendations thereon and further analysing obstacles to its full enjoyment, focusing each year on specific commitments in the Declaration; to review reports and any other information submitted by States, United Nations agencies, other relevant international organizations and non-governmental organizations on the relationship between their activities and the right to development; and to present for the consideration of the Commission a sessional report on its deliberations, including advice to the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the implementation of the right to development and suggesting possible programmes of technical assistance at the request of interested countries with the aim of promoting the implementation of the right to development.

II. Organization of the session

3. The Working Group convened its nineteenth session in Geneva from 23 to 26 April 2018. The session was opened by the United Nations Deputy High Commissioner for Human Rights. In her opening statement,[1] the Deputy High Commissioner emphasized the indivisibility and universality of all human rights and the way in which the right to development could make a unique and essential contribution in addressing global challenges. Inequality and discrimination were the defining challenges of our time. She referred to the devastating impact of illicit financial flows; poor patterns of public expenditure; and public services undermined by political interests. Different results would come only from a different approach, in which development and globalization benefits were shared fairly so as to leave no one behind either by design or neglect. She called upon the Working Group to reflect upon its mandate, achievements and challenges and to consider new avenues for achieving progress in the implementation of the right to development.

4. At its first meeting, on 23 April 2018, the Working Group re-elected by acclamation Zamir Akram as Chair-Rapporteur. In his opening statement,[2] the Chair-Rapporteur referred to several instruments that the international community had adopted by consensus and called upon Member States to use these consensus texts as a basis for moving forward in the implementation of the right to development. He had consistently argued that progress in the Working Group was possible only if participating Member States demonstrated the necessary political will for compromise and by seeking common ground. The 2030 Agenda for Sustainable Development (General Assembly resolution 70/1) further enhanced the possibilities for realizing the right to development, since the Sustainable Development Goals contained therein are broadly consistent with that right. The Chair-Rapporteur referred to a paper that he had submitted to the Working Group highlighting common elements in key texts.[3]

5. The Chair invited Vitali Rousak, Chief, Central Planning and Coordination Service, Division of Conference Management, United Nations Office at Geneva, who drew the

[1] The full text of the statement is available from www.ohchr.org/EN/Issues/Development/Pages/19thSession.aspx.

[2] The full text of the statement is available from www.ohchr.org/EN/Issues/Development/Pages/19thSession.aspx.

[3] A/HRC/WG.2/19/CRP.1.

attention of the Working Group to General Assembly resolution 72/19 on the pattern of conferences, with regard to the utilization of conference-servicing resources. The purpose was to raise awareness that the utilization rate of the Working Group had fallen below the 80 per cent benchmark and to encourage all the session participants to use the allocated time and resources judiciously, taking into consideration the constraints on the limited conference-servicing capacity of the United Nations Office at Geneva.

6. The Working Group subsequently adopted its agenda (A/HRC/WG.2/18/1) and programme of work (A/HRC/WG.2/19/INF.1) with a minor amendment to the text under agenda item 4 (e) proposed by the European Union and supported by Japan (A/HRC/WG.2/19/INF.1/Rev.1). Egypt had initially agreed with the amendment but later noted that the original text had been in accordance with Human Rights Council resolution 36/9 on the right to development.

7. During the session, the Working Group considered contributions by States and other stakeholders to the implementation of the right to development, comments and views from relevant stakeholders on the draft right to development criteria and corresponding operational subcriteria and standards for the implementation of the right to development (A/HRC/WG.2/17/2 and A/HRC/WG.2/18/G.1). The Working Group also engaged in an interactive dialogue with the Special Rapporteur on the right to development and with experts on the implementation and realization of the right to development.

III. Summary of proceedings

A. General statements

8. Speaking on behalf of the Movement of Non-Aligned Countries, the representative of the Bolivarian Republic of Venezuela reaffirmed the commitments made at the seventeenth Summit Conference of Heads of State of Government of Non-Aligned Countries. The Non-Aligned Movement firmly believed that the realization of the right to development was a necessity and that the international community must demonstrate its commitment and give the right to development the high profile that it merited. The right to development should be central to the implementation of the 2030 Agenda. International cooperation was integral to the implementation and realization of the right to development and could help overcome the lasting global challenges. The Non-Aligned Movement hoped that the Working Group would be able to advance the development of a complete and unique set of standards for the implementation of the right to development.

9. The European Union remained strongly committed to achieving sustainable development and eradicating poverty, promoting human rights, working towards ensuring security, conflict prevention and resolution and encouraging good governance, gender equality, human development, accountability and equitable globalization. Divergent views in the understanding of the right to development remained. It reiterated its support for the right to development, as based on the indivisibility and interdependence of all human rights, the multidimensional nature of development strategies and individuals as the central subjects of the development process. The European Union reaffirmed its position that it was not in favour of the elaboration of an international standard of a binding nature. It was willing to continue the consideration of the right to development criteria and subcriteria through a consensual approach.

10. The delegate of Pakistan, speaking on behalf of the Organization of Islamic Cooperation (OIC), stated that, after two decades in the Working Group of streamlining elements, criteria and guidelines, it was time to move from discussion to practical action. OIC urged the Working Group to start drawing up an internationally legally binding instrument for the right to development without further delay. It called for flexibility and compromise, in order to move beyond the entrenched positions that had derailed the process to date.

11. Speaking on behalf of the African Group and expressing agreement with the Non-Aligned Movement, the delegate of Togo expressed a wish to see the finalization of the

criteria and subcriteria in relation to the elaboration of a comprehensive and coherent set of standards for the implementation of the right to development and sound follow-up mechanisms. The participation and voice of the most vulnerable was crucial. The delegate called upon developed countries to ensure fair financing for development and reform of the current free trade and development finance system, as they hampered sustainable development.

12. The representative of Brazil stated that the right to development was interrelated with the realization of all human rights. While recognizing the different legal standing of human rights norms and the 2030 Agenda, there was no doubt that they were complementary and mutually reinforcing. Engaging with consideration of the criteria and subcriteria in relation to the elaboration of a comprehensive and coherent set of standards for the implementation of the right to development had enhanced and deepened the country's understanding of the right to development. It was time to move forward to address emerging priority issues, in the context of the 2030 Agenda.

13. The delegate of the Islamic Republic of Iran noted that, for many years, the developing countries had fought for the welfare and prosperity of their nations and were therefore concerned about economic, social and cultural rights and the right to development. Development was a right and the Islamic Republic of Iran refuted any approach trying to undermine that right or associating it to charity, privilege or generosity. While the discussions on the right to development had been adversely affected by political and conceptual differences, globalization and economic crises had highlighted that the right to development was relevant to all countries, regardless of their level of development. We should overcome the political impasse and move from rhetoric to action.

14. The representative of the Plurinational State of Bolivia expressed agreement with the Non-Aligned Movement and reiterated the importance of the right to development with respect to cultural diversity and social contexts. The representative also reiterated the fundamental sovereign equality of States in international law. The current international financial system promoted inequality, poverty and marginalization, and measures were required at the international level to ensure the full exercise and realization of the right to development. A binding instrument was vital to fill that legal gap.

15. The delegate of Cuba expressed agreement with the Non-Aligned Movement. Obstacles to the implementation of the right to development increasingly prevented people from enjoying development and their human rights. The right to development also contained the extraterritoriality dimension. The question now was about operationalizing that right rather than discussing whether it was a human right. Cuba encouraged national human rights institutions to operationalize the right to development at a national level and remained willing to engage constructively with all other stakeholders.

16. The delegate of Nigeria, expressing agreement with the African Group, the Non-Aligned Movement and OIC, reiterated the position of Nigeria that the right to development deserved adequate international attention and was key to achieving the 2030 Agenda. The lack of development opportunities was negatively affecting the well-being of the citizens of developing countries and contributing to instability and conflicts, which posed serious threats to global peace and security. Nigeria urged all stakeholders to shelve the seeming differences and be committed to the international efforts aimed at the realization of the right to development.

17. The representative of China said that development was an inalienable human right and that all countries were free to choose their own development agendas, that catered to their own realities. To achieve robust, sustainable, inclusive development, China called upon all States to comply with the Charter of the United Nations, respect different political, social systems and development progress in different countries, strengthen dialogue and cooperation, fully incorporate sustainable development and construct international relations that were fair, just and mutually respectful.

18. The delegate of Sri Lanka noted that the country was yet to operationalize that mandate owing to the absence of a comprehensive and coherent set of standards for assessing development. Regional and international efforts were needed to complement national efforts. Through its "Vision 2025: a country enriched" policy document, Sri Lanka

had now launched a comprehensive framework to alleviate poverty. The delegate reiterated the call for the finalization of the set of standards as a matter of urgency and emphasized the importance of finalizing the criteria and subcriteria, which had been under negotiation since 2010.

19. The representative of Pakistan expressed agreement with the Non-Aligned Movement and OIC. The Declaration on the Right to Development broadly defined various aspects of the right to development, while discussions around the criteria and subcriteria and set of standards were fruitful for shortlisting different categories, elements and guidelines for operationalization of the right to development. The right to development provided a bridge between development and human rights. Pakistan supported the theme of the 2018 high-level political forum on sustainable development, "transformation towards sustainable and resilient societies", which could help in the promotion and protection of all human rights.

20. The representative of Egypt, expressing agreement with the African Group and the Non-Aligned Movement, noted that the right to development required international cooperation within a framework of equitable economic relations, exchange of best practices and transfer of technology, while respecting the principle of common but differentiated responsibilities. Egypt was looking forward to concluding the discussion on the set of standards and criteria. Any further delay in the adoption of the standards should act as a trigger to the Human Rights Council to decide upon the best way of drawing up a legally binding instrument.

21. The delegate of South Africa stated that the promise of the right to development had remained unfulfilled and undermined by philosophical debates, with regression on key commitments. It was an equal right, and article 22 of the African Charter on Human and Peoples' Rights was testimony to the continent's commitment towards the practical realization of the right to development. The delegate referred to the stagnation with regard to progress on the right to development in the Working Group, owing to ideological differences, while poverty and obstacles towards development remained deep-rooted. The delegate also spoke of the need for the involvement of United Nations system organizations, to mainstream the right to development, and of the High Commissioner, to identify and implement concrete and stand-alone projects.

22. The representative of the Bolivarian Republic of Venezuela expressed regret that some developed countries had blocked such work over the years and noted that unilateral sanctions undermined the progress in the work on development and that capitalism exacerbated inequalities. The representative stressed the need for a legally binding document, reaffirming the provisions of the Declaration on the right to development, and expressed support for the adoption of guidelines on the operationalization of the right to development.

23. The delegate of Ethiopia expressed agreement with the African Group and the Non-Aligned Movement and believed that development was a question of survival as a human being and a fundamental human right. The international community had an obligation to work and cooperate for the realization thereof. Growing alone was costlier than growing together, and the Government was striving and working towards the realization of development with its neighbours for mutual benefit and the creation of a peaceful world, through poverty reduction and the creation of additional jobs.

24. The representative of Nepal stated that the value that the right to development bore for a least developed country could hardly be overemphasized. The right to development could constitute real connecting threads that led to the realization of all human rights and that called for its mainstreaming. Nepal hoped for the finalization of the consideration of criteria and subcriteria and noted that, without the creation of a just and predictable environment underpinned by a suitable international legal framework, the dream of realizing the right to development would largely remain unfulfilled.

25. The delegate of Qatar expressed agreement with the Non-Aligned Movement. Qatar noted with regret that the use of unilateral cohesive measures created obstacles for the promotion of the right to development and blocked its implementation, also affecting global cooperation for sustainable development. It encouraged States to overcome those obstacles

by avoiding such policies and expressed its support for the efforts of the Working Group on the adoption of criteria and operational subcriteria.

26. The delegate of Mozambique expressed agreement with the African Group and the Non-Aligned Movement and noted that, even though the right to development did not enjoy consensus, Mozambique appealed to all Member States to continue to lend support to the mandates of both that Group and the Special Rapporteur. The principles of leaving no one behind, universality and inclusiveness reinforced the right to development and the role that it could play in realizing the Sustainable Development Goals. Mozambique encouraged the efforts undertaken to ensure a possible engagement of the Working Group with the high-level political forum on sustainable development, given the intrinsic connections between the processes.

27. The representative of the Holy See noted that development must not be understood solely in economic terms, but in a way that was integrally human. The Holy See hoped that the solemn commitments made in 2015 would serve as a catalyst for the proper implementation of clear principles for the promotion of the common good and the improvement of all sectors of life. Humanity was faced with crucial challenges, and the challenges of true commitment and real implementation were even greater.

28. The delegate of Malaysia expressed agreement with the Non-Aligned Movement and OIC. The delegate stated that the empowerment of women and girls was the key component in the development agenda. The delegate listed a number of obstacles to development, including violence, conflict, climate change and natural disasters, and underlined economic obstacles. Malaysia emphasized the need for international cooperation to overcome such obstacles and called on States to use all means to implement the right to development.

29. The representative of Algeria expressed its full support for the Working Group and its work. The representative noted that the right to development was both an individual and a collective right and highlighted the need to create an enabling environment to give individuals and society the ability to develop. The representative expressed regret that certain political interests had hindered the work of the Working Group and stressed the need to give a fresh momentum to the implementation of the right to development.

30. The representative of Botswana expressed agreement with the African Group and the Non-Aligned Movement and stated that the present challenges impeding the right to development would affect the enjoyment of certain human rights and fundamental freedoms. The hardest-hit in terms of uneven progress in global efforts towards realizing the vision of the Declaration were, in particular, people in Africa, the least developed countries, landlocked developing countries and small island developing States. The entire United Nations system should spare no effort in mainstreaming the right to development. The representative reiterated the commitment of Botswana to the finalization of the consideration of the draft criteria and subcriteria.

31. The delegate of Kuwait expressed agreement with the Non-Aligned Movement and OIC. Kuwait hoped that efforts in the Working Group and by the Special Rapporteur would lead to addressing the challenges faced in the implementation of the right to development. The delegate stressed the need to concentrate on the humanitarian issues and spoke of the establishment of the Kuwait Fund for Arab Economic Development for the provision of humanitarian aid to developing countries. The delegate expressed hope that the States would be able to reach understanding on the criteria and operational subcriteria in the present session.

32. The delegate of Ecuador expressed agreement with the Non-Aligned Movement and noted that, more than 30 years after the adoption of the Declaration on the Right to Development, there was a need to move forward. Ecuador supported the work on the document containing criteria and operational subcriteria and hoped to finalize the document in the present session. The delegate noted the need to take into the account the results of the previous high-level political forum and the set of existing international instruments, including Human Rights Council resolution 37/25 on the right to access to justice under article 13 of the Convention on the Rights of Persons with Disabilities.

33. The representative of Indonesia, expressing agreement with the Non-Aligned Movement and OIC, noted that discussion of a set of standards, criteria and operational subcriteria had continued for some time without concrete results. There should be a political commitment and willingness from all Member States towards the realization of that very important right. International cooperation and global partnership should be recognized by all States as essential elements. Indonesia had made efforts towards realizing the right to development at the national, regional and global levels.

34. The delegate of Azerbaijan expressed agreement with the Non-Aligned Movement and the Organization of Islamic Cooperation and spoke of the need for more publicity and visibility with regard to that event and ongoing discussions on the right to development. The exchange of different views would yield concrete results to better promote international cooperation for the realization of the right to development. Azerbaijan expressed hope that the present effort would yield concrete results. The delegate stressed that the 2030 Agenda was the central part of the development agenda at all levels and highlighted that, with mass-scale migration and people on the move, there was a need to strengthen international solidarity and cooperation for the realization of the right to development.

35. The delegate of the Philippines expressed agreement with the Non-Aligned Movement. The Philippines appreciated the progress made in the formulation of the criteria and operational subcriteria and hoped that collaborative engagement during the present session would finalize that exercise. Given that the right to development was an inalienable human right, and reflected in recent major multilateral agreements, it joined other delegations in calling for the start of the elaboration of a legally binding instrument on the right to development.

36. The representative of Syria expressed agreement with the Non-Aligned Movement and noted that, 30 years after the adoption of the Declaration on the Right to Development, there were still a number of obstacles to the realization of that right. The representative stated that developed countries also adopted policies creating such obstacles, such as unilateral coercive measures or the use of terrorism to destabilize other countries. The representative reiterated the importance of the link between different human rights and the importance of international cooperation and the realization of the 2030 Agenda.

37. The representative of the South Centre noted that the right to development was the key element of the work of the Centre and affirmed the importance of the Declaration. The representative recalled the meeting of the Non-Aligned Movement in Baku, at which it was declared that implementing the right to development required a profound change in the international economic structure, including the creation of economic and social conditions that were favourable to developing countries. The representative stressed the need to eradicate poverty, as a critical element for the promotion of the right to development and achieving the Sustainable Development Goals.

38. The representative of Associazione Comunità Papa Giovanni XXIII, speaking on behalf of the Geneva-based Forum of Catholic-inspired Non-governmental Organizations, stated that human rights would be better fulfilled if States had the political will and a genuine commitment to the implementation of the right to development and to conceive of it in a holistic, critical and multidimensional way. Effective international cooperation and solidarity among States were necessary to achieve a global framework on the right to development. The Forum hoped that, in the present session, States would conduct the discussion on the criteria and operational subcriteria with a more constructive attitude, in order to conclude the process. As the working document on the criteria and operational subcriteria had progressively become unmanageable, the Forum had produced a table to show similarities and repetitions, in order to speed up the discussion.

39. The representative of the Indian Council of South America expressed concern over the implementation gap between the principles enshrined in the Declaration on the Right to Development and the poor protection of the rights of peoples under colonial domination and occupation. Article 5 of the Declaration on the Right to Development gave a clear indication that the right to self-determination must be included in the elaboration of a draft international instrument.

B. Interactive dialogue with the Special Rapporteur on the right to development

40. The Special Rapporteur on the right to development, Saad Alfarargi, addressed the Working Group at its second meeting. He provided an overview of his mandate and the work undertaken. The right to development and all other human rights were an integral part of sustainable development. While economic growth was important, development had a qualitative aspect, and including the human rights dimension was crucial. The Declaration on the Right to Development must be the guiding force for the implementation of the 2030 Agenda for Sustainable Development. He reported on the regional consultations on the implementation of the right to development, as mandated by the Human Rights Council in resolution 36/9. The focus of the consultations was on identifying and promoting good practices in the implementation of the right to development, including with regard to the design, implementation, monitoring and evaluation of policies and programmes devised to advance human development. One overarching theme that emerged was the importance of the effective participation and inclusion of all relevant stakeholders in the development process. The ultimate goal was to formulate general guidelines for implementing policies and programmes to realize the right to development. He also provided information on his upcoming visit to Cabo Verde and his forthcoming reports on the right to development and inequality and South-South cooperation. He hoped that his partnership with the Working Group would be a good example of synergies in the work of special procedures and other mechanisms.

41. The representative of the Bolivarian Republic of Venezuela, speaking on behalf of the Non-Aligned Movement, the European Union and representatives of the Islamic Republic of Iran, Egypt, South Africa, Tunisia and Ecuador, took the floor, followed by the Associazione Comunità Papa Giovanni XXIII, speaking on behalf of the Forum of Catholic-inspired Non-governmental Organizations, and the Indian Council of South America. Several speakers welcomed the approach of the Special Rapporteur to his work, highlighting his cooperation with other special procedures mandate holders of the Council, United Nations agencies and other mechanisms involved in issues related to the right to development. The mandate would provide a valuable opportunity to continue to advance in overcoming the obstacles that had impeded the effective realization of the right to development. The European Union took note of the Special Rapporteur's report and stressed its concern regarding duplication of work between the mandate of the Special Rapporteur and the Working Group. Some delegates acknowledged the importance of maintaining a fluid dialogue with the Special Rapporteur, in particular with regard to the development of a single and complete set of standards for the implementation of the right to development. International cooperation and partnership could contribute to ensuring sustainable and inclusive development and help forge a rule-based global order. Representatives emphasized the need to remove obstacles hindering the right to development, in particular, politicization.

42. The Special Rapporteur welcomed all the contributions and reiterated that wide support for his work would encourage broader participation in the work of and engagement with the mandate holder. Coordination among special procedures mandate holders was important. He referred to the regional consultation that had taken place, explained how the meetings were planned and said that he was open to comments on the work to date.

C. Interactive dialogue with experts

43. In accordance with paragraph 14 of Council resolution 36/9, the Working Group held an interactive dialogue with experts on the implementation and realization of the right to development and the implications of the 2030 Agenda, including the possible engagement of the Working Group with the high-level political forum on sustainable

development.[4] The first panel included Olivier De Schutter, a member of the Committee on Economic, Social and Cultural Rights; Bhumika Muchhala, Independent Consultant on Finance and Sustainable Development, Lucy Claridge, legal expert, and Vicente Yu, Deputy Executive Director of the South Centre and Coordinator of the Global Governance for Development Programme.

44. Mr. De Schutter presented a study on the international dimensions of the right to development. The right to development should not be self-contained and should extend influence outside the United Nations system. International obligations had two categories: (a) extraterritorial obligations in the field of human rights, including "negative" and "positive" duties, in which context he referred, inter alia, to general comment No. 24 on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, adopted by the Committee on Economic, Social and Cultural rights in 2017; and (b) global obligations, a characteristic of which was the duty of States to take into consideration their human rights obligations, in good faith, in the search for multilateral solutions to global problems. Key areas essential to the advancement of development were: restructuring and alleviation of foreign debt, elimination of illicit financial flows, official development assistance, trade and investment reform, the regulation of transnational corporations, intellectual property rights and the transfer of technology and international support for the establishment of universal social protection floors. The report provides forward-looking recommendations.

45. Ms. Muchhala presented a study on the right to development and illicit financial flows. The premise of connecting illicit financial flows to the right to development was that the right made the prevention, regulation, and eventual elimination, of illicit financial flows a human rights imperative. Currently, three frameworks, namely, the Declaration on the Right to Development, the 2030 Agenda and the Sustainable Development Goals and the Addis Ababa Action Agenda of the Third International Conference on Financing for Development, were central to taking meaningful action on illicit financial flows. She explained the concepts of transfer mispricing, tax havens and offshore wealth and pointed out that illicit financial flows were, in different ways, a significant constraint to domestic resource mobilization for the Sustainable Development Goals and financing for development. Global tax cooperation among States within international organizations was therefore crucial.

46. Ms. Claridge informed the Working Group on jurisprudential developments of the right to development at the African Court for Human and Peoples' Rights in the Ogiek case. The Court reaffirmed earlier jurisprudence of the African Commission and Human and Peoples' Rights to the effect that indigenous peoples were entitled to the right to development under article 22 of the African Charter on Human and Peoples' Rights. The Court recognized that participation was an essential element of the right to development. It also endorsed the principles developed in relevant case law. Drawing on article 23 of the Declaration on the Rights of Indigenous Peoples, the Court declared that the State was responsible for creating conditions favourable to peoples' development. The ruling confirms that there was a clear positive duty on the State to ensure that people were not left out of the development process or benefits.

47. Mr. Yu spoke on challenges for the implementation of the right to development and the 2030 Agenda. The major challenges were that the global economy remains uncertain and was not stable. Yet the international community, including both the developed and developing countries, was not prepared for a new economic crisis or economic slowdown. Climate change could also constrain development and the right to development, and therefore the implementation of the Paris Agreement had to be scaled up. These constraints could be examined to create an effective contextualized national strategy. Given an uneven playing field, the principles of special and preferential treatment and common but differentiated responsibility should be reflected in climate change action so that developing

[4] Transcripts of the experts' presentations are available from www.ohchr.org/EN/Issues/Development/Pages/19thSession.aspx.

countries could design proper national policies. Policy areas required systematic reforms, with strong international partnerships.

48. In the ensuing discussion, the representatives of the Bolivarian Republic of Venezuela, speaking on behalf of the Non-Aligned Movement, Kenya, the Islamic Republic of Iran, South Africa, Brazil, the European Union, Ecuador, the Plurinational State of Bolivia and the Bolivarian Republic of Venezuela took the floor, followed by the Associazione Comunità Papa Giovanni XXIII, speaking on behalf of the Forum of Catholic-inspired Non-governmental Organizations, and the Indian Council of South America. The representatives reiterated that South-South cooperation was an important element of international cooperation for sustainable development as a complement to North-South cooperation. The delegate of Kenya had a specific question on the ruling in the Ogiek case and explained that a task force to implement the ruling had been set up. He also asked whether there were examples of similar cases regarding the rights of indigenous peoples and violations of the right to development in other jurisdictions. Delegates noted that the 2030 Agenda and Goal 17 thereof clearly echoed the Declaration on the Right to Development. The means of implementation were fundamental for the success of countries in meeting their development needs and achieving the Sustainable Development Goals and that all means of implementation deserved equal attention. The representative of the European Union stated that the 2030 Agenda put the imperative of equality and non-discrimination at the heart of its concerns. Some delegates highlighted the need to continue to work to formulate policies for development more specifically and to take into account the activities around those policies and strategies, including investment challenges, the lack of independent mechanisms for solving disputes, external debt, climate change and other challenges. Delegates spoke of the relationship between the Paris Agreement and the right to development and how that connection had to be properly established within the framework of the right to development in terms of equity and common but differentiated responsibilities.

49. In concluding the session, experts were of the view that the principle of differentiated treatment of developing countries was about fairness, given the inequalities that resulted from historical and economic conditions. The means of implementation and Sustainable Development Goal 17 were very important and, without that Goal, other Goals could not be implemented. There were similar cases in other jurisdictions, for example in Latin America, where the rights of indigenous peoples had been considered; however, the right to development had not been addressed in those cases because the African Charter on Human and Peoples' Rights was the only human rights convention which provided for a justiciable right to development. There was no reason why the right to development could not be invoked in the context of other types of case, such as those concerning climate change. Speakers emphasized the particular issue of policy coherence and noted that it should be invoked in the present era of financial globalization. A framework convention on the right to development would have added value, as it could complement the existing human rights regime and, in the context of financial globalization, such a convention could address extraterritorial impacts. With regard to threats to multilateralism, the right to development should be an "umbrella" over all policies, and human rights should be referenced by relevant organizations such as the United Nations Conference on Trade and Development (UNCTAD).

50. The second panel session focused on the theme of the 2018 high-level political forum, "Transformation towards sustainable and resilient societies". The panel included the Special Rapporteur on the right to development, Saad Alfarargi; the Independent Consultant on International Political Economy, Bhumika Muchhala; the Chairman, Rural Support Programmes Network, Pakistan, Shoaib Sultan Khan; and an independent consultant, Tessa Khan.

51. Mr. Alfarargi focused on the challenges that inequalities – both within and among countries – posed for the realization and effective implementation of the right to development for all. Inequality permeated various aspects of peoples' lives, threatened long-term social and economic development, harmed poverty reduction and adversely affected people s sense of fulfilment and self-worth. The 2015 Investment Policy Framework for Sustainable Development provided a new impetus, reiterating the need to

reduce inequalities and combat discrimination in order to fully realize the right to development for everyone. He referred to five areas of action: (a) identifying those left behind; (b) identifying and combating root causes of inequality; (c) ensuring inclusive and participatory processes; (d) accountability mechanisms; and (e) identifying, sharing and replicating good practices in the reduction of inequalities. He saw his role as bridge builder between relevant stakeholders at the international, regional and local levels.

52. Mr. Khan presented the experience of the Rural Support Programmes Network of Pakistan with implementing the right to development as a practical example of how development could be achieved through self-help efforts. At the core of the network was the element of social mobilization, to enable the poor to participate in decisions that affected their lives. Social mobilization was a holistic approach, including human resources development, a community investment fund, technical assistance, infrastructure development and connectivity with other State and non-State actors. It was an effective and expedient way to realize the right to development of the rural poor and achieve the sustainable development goals.

53. Ms. Muchhala, presenting a study on international investment agreements, industrialization and human rights, spoke of the constraints that the agreements posed to achieving the right to development through inclusive, equitable and sustainable industrialization under Sustainable Development Goal 9. The constraints were investor protections under the agreements, enforced by the investor-State dispute settlement mechanism. The principles and elements of the Declaration on the Right to Development mandated that both national and international development policies created an enabling environment for development, thus making it an effective human rights tool to address obstacles posed by investment agreements. The investor protection measures that affected the ability of States to achieve sustainable development were prohibitions on performance requirements, such as local content and the dispute settlement mechanism. Recommendations included: human rights impact assessments; the provision by international organizations of information on options and best practices; and the inclusion of human rights and women's rights provisions in the agreements.

54. Ms. Khan addressed the way in which the right to development and the broader human rights framework could shape the way in which climate finance should be mobilized and administered. In response to the threat of climate change, States had committed, in multiple instruments, to mobilize the resources required to mitigate and adapt to climate change, including through the Green Climate Fund. The amounts available were a fraction of the amount required to support climate-resilient development. The following principles should inform the operation of climate finance mechanisms: explicit commitments to human rights in governing documents, a robust approach to ensuring the effective participation of stakeholders, the need for human rights infrastructure within climate funds, human rights policies that included quantitative and qualitative indicators and the effective oversight and monitoring of partner entities, including financial intermediaries.

55. In the ensuing discussion, the representatives of the Bolivarian Republic of Venezuela, on behalf of the Non-Aligned Movement, Egypt, Pakistan, Mozambique and Ecuador, took the floor, followed by the Associazione Comunità Papa Giovanni XXIII, speaking on behalf of the Forum of Catholic-inspired Non-governmental Organizations, and Caritas International. Many contributions focused on the implementation of the Sustainable Development Goals, the high-level political forum and issues of synergy and policy coherence and the participation of civil society in the implementation of the Sustainable Development Goals. Representatives spoke of their own experiences with investment agreements and review processes to overhaul treaties and the importance of a human rights focus. Contributions emphasized the need to prioritize climate change and the need to ensure that discrepancies between the amounts pledged in climate funds and disbursement were tackled.

56. In concluding the session, the panellists responded to questions and elaborated on a number of key points. Accountability for climate finance obligations was urgently needed through a common reporting format, aid classification indicators and adoption of best practices. Reference was made to the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights and

the need for human rights impact assessments. More awareness and information sharing was an important part of the Special Rapporteur's mandate and in the high-level political forum, which was for Governments; but he hoped for enough space to listen to and interact with civil society.

D. Contributions by States and other stakeholders

57. The representative of Pakistan spoke of that country's multifaceted approach towards development, including structural reforms, investment-friendly policies and social safety nets for the vulnerable. The China-Pakistan Economic Corridor was a key regional initiative for connectivity and the shared prosperity of nations, and was a practical example of the realization of the right to development by fuelling economic growth in the region. Similar regional projects could promote international cooperation for development and operationalize the right to development.

58. The representative of Cuba noted that international cooperation based on solidarity and humanism and without conditionality was an essential component of its foreign policy. International cooperation by Cuba covered many sectors, including education, health and sport. In the health sector, for example, health programmes were offered to Central American and Latin American countries in the wake of natural disasters and in the training of health professionals. At a national level, limited natural and financial resources had not prevented the implementation of a national strategy. Cuba put the human person at the centre of development, with the aim of reducing inequalities and providing universal and free coverage for education and health.

59. The delegate of Egypt stated that the country's 2030 strategy was based on the principle of inclusive sustainable development and balanced regional development as a general framework for improving the quality of life and welfare in an inclusive way, focusing on the economic, social and environmental dimensions. The strategy served as a basis for incorporating the Sustainable Development Goals in national planning and aligning efforts with their implementation. The strategy had been developed in a participatory manner, and all government agencies collaborated to set comprehensive objectives. The current local, regional and global circumstances gave that strategy a comparative advantage and importance for dealing with international developments.

60. The representative of Indonesia spoke of that country's policies, including: mainstreaming the 2030 Agenda into national development planning; finalizing legal and institutional frameworks for national implementation; engaging all stakeholders; and monitoring and evaluation. On more specific measures, Indonesia had enhanced the budget allocation for social development programmes. At the regional level, the country was planning to convene a leaders' gathering of the Association of Southeast Asian Nations on the Sustainable Development Goals. At the global level, Indonesia actively contributed and participated in South-South cooperation and triangular cooperation in the implementation of the Goals.

61. The delegate of Ethiopia spoke of the country's contribution to peace and security and as a host in the efforts to advance the international development agenda. Regionally, it had led and hosted development dialogues in the African Union and other forums. Ethiopia strongly believed that multisectoral development-oriented programmes were the only means for building resilience at the community and national levels with investments in infrastructure development. It called for stronger international solidarity and cooperation to achieve global development outcomes effectively and in a timely manner.

62. The response of the European Union to the 2030 Agenda was focused on mainstreaming Sustainable Development Goals into the European policy framework and the priorities of the European Commission. The new European Consensus on Development proposed a collective European development policy structured around five core themes of the 2030 Agenda and highlighted key cross-cutting elements. Its external policies and actions were already making concrete contributions to the 2030 Agenda, including a path towards a circular economy, the European Energy Union Initiative, resource efficiency, 0.7 per cent official development assistance and follow-up to the Paris Agreement.

63. The delegate of the Syrian Arab Republic spoke of the development of national legislation, laws and policies to guarantee sustainable development, for instance, laws and financial policies that ensured minimum wages and income equality. There were measures to ensure equality and deal with discriminatory policies and practices. The country had adopted poverty alleviation programmes, provided social insurance, rural development measures, social protection programmes and empowerment of women initiatives. It had cooperated with a number of United Nations agencies to realize Sustainable Development Goals and, despite the enormous challenges faced, it remain committed and was making all possible efforts to implement the Goals.

64. The representative of the Bolivarian Republic of Venezuela spoke of its comprehensive approach to the implementation of the right to development. It had promoted integration models in the regional and international spheres, based on international cooperation and solidarity. Highlights included the Bolivarian Alliance for the Peoples of our America, the Union of South American Nations, PetroCaribe and the Community of Latin American and Caribbean States. It had developed a participatory policy promoting dialogue, gender perspectives, inclusion and non-discrimination. The representative made reference to the national human rights action plan 2016–2019 and emphasized the need for a profound transformation of the economic system to eradicate poverty and realize the right to development.

65. The delegate of South Africa spoke of the country's implementation of the Sustainable Development Goals, on the basis of both the national development plan and the current medium-term strategic framework and on the Constitution, which spoke to a variety of rights aligned to the right to development. Implementation was facilitated by the involvement of all relevant line-function departments across the Government. Intense task team exercises had been created for matters relating to sustainable development and to fast-track the Government's delivery programme, called Operation Phakisa. The delegate noted the country's regional efforts, funding gaps, a knowledge hub related to the Goals and the African Union-United Nations Framework for the implementation of Agenda 2063 and the 2030 Agenda for Sustainable Development, which envisioned stronger coordination between the two organizations to contribute positively to people-centred and planet-sensitive structural transformation in Africa.

66. The delegate of Ecuador noted that the country had incorporated Sustainable Development Goals into the relevant national development plan (called "One life"), which ensured human rights across the entire life cycle for all individuals. The plan also sought full economic fulfilment at the national and global levels, full citizenship, transparency and the fight against corruption, ensuring sovereignty and the promotion of peace. This was constructed on the basis of dialogue and on a democratic process based on their common interest, enshrined in diversity. In terms of inequalities, Ecuador provided for cooperation in specific spheres, linked to international priorities, the rights of persons with disabilities, the eradication of discrimination and the roll-out of projects all across Latin America and the Caribbean. The delegate underlined the importance of strategic funding in order to work towards sustainable development on the basis of common and shared principles, and urged all States to mobilize resources, both private and public, and identify priorities among different development objectives.

67. The representative of the Plurinational State of Bolivia spoke of the national development plan, which was within the framework of integrated development for living well national development plan 2006–2011. The plans were oriented towards the strengthening of an integral State and well-being and coordination between different levels of government, whereby democratic autonomy and economic sovereignty were bolstered. This would facilitate people's access to basic fundamental services and the implementation of a new environmental model. The representative referred to the country's growth and poverty reduction efforts and the policy of investment in various sectors in the light of the implementation of the 2030 Agenda. The country was convinced that the right to development was inherent and was bound to a culture of peace and cooperation based on mutual knowledge, respect and cultural diversity.

68. The representative from Associazione Comunità Papa Giovanni XXIII stated that it was involved in a wide range of social activities and development initiatives at grass-roots

level, working with people living in extreme poverty in both developing and developed countries. This included a range of projects in Italy in its implementation of the national sustainable development strategy, social cooperatives, the anti-trafficking programme and the civil peace corps. It also had projects in Zambia, Bangladesh and Brazil, dealing with orphans, the right to education and violence against children and young women.

69. The representative from the International Campaign to Abolish Nuclear Weapons stated that civil society had been a fundamental actor in advancing the issues of disarmament and human rights. Conventional weapons had a negative impact on development, as recalled in article 7 of the Declaration on the Right to Development and in Strategic Development Goal 16. The representative called on all countries to ratify agreements that prohibited conventional weapons causing humanitarian impact and to achieve complete disarmament, with special reference to the Treaty on the Prohibition of Nuclear Weapons so that countries could release resources for global development.

E. Draft right to development criteria and the corresponding operational subcriteria

70. The Working Group continued its consideration of the draft right to development criteria and the corresponding operational subcriteria prepared by the high-level task force (see A/HRC/15/WG.2/TF/2/Add.2, annex). Speaking on behalf of the Non-Aligned Movement, the representative of the Bolivarian Republic of Venezuela recalled Human Rights Council resolution 36/9, in which the Council decided that the Working Group should finalize the document on criteria and subcriteria no later than the nineteenth session. The representative observed that there were still no real results of that work and expressed the wish to move forward. The representative noted that, in each session during discussion of the document, new points of view appeared, hindering the adoption of the document, and that it was now the right time to take effective measures regarding criteria and subcriteria. The European Union reiterated that there was no way forward other than a consensus and that consensus had been undermined when it was insisted that a legally binding document was the only possible outcome of the discussions.

71. Representatives from Egypt, the Islamic Republic of Iran, Pakistan, Brazil, South Africa, Japan and the Bolivarian Republic of Venezuela took the floor to present their views on the agenda item and the way forward with contributions by Associazione Comunità Papa Giovanni XXIII, speaking on behalf of the Forum of Catholic-inspired Non-governmental Organizations, the Centre Europe-tiers monde and the Indian Council of South America. The Chair-Rapporteur summarized the exchange of views and said that it was clear that consideration of the criteria and subcriteria was an issue on which there was no common ground and that existing divergent views would continue to persist. As an alternative, he proposed that the Secretariat could "clean up" the text and remove redundancies, while retaining existing language, with proposals from delegations reflected as they were. Additionally, the Secretariat could provide alternate language from the relevant existing consensus documents and submit it for consideration by the Working Group at its following session in such a way as to open up the possibility for agreement. This proposal was aimed at bridging the existing gap and moving forward in a favourable direction. Delegates' feedback to the proposal was mixed and the representative of the Non-Aligned Movement suggested working on the existing text for the remainder of the meeting, which some delegates from the Movement supported. The delegate of the European Union stated that, in the present circumstances, he could not make any specific comments on the provisions of the document and would both retain existing reservations in the text and place reservations on any new proposals or modifications. The delegate of Japan also reserved all criteria and subcriteria that Japan had previously reserved and was not ready to discuss any new proposals, in addition reiterating that Japan did not support the adoption of a legally binding document. The Working Group completed a reading of criterion 1 (a) to criterion 1 (e) alt 1 during the meeting.

F. Standards for the implementation of the right to development

72. The Working Group continued its discussion on the elaboration of standards for the implementation of the right to development. In that regard, the Group had before it two documents: the report on standards for the implementation of the right to development (A/HRC/WG.2/17/2), which had been prepared and presented by the Chair-Rapporteur at the Group's seventeenth session, and the proposals by the Non-Aligned Movement on a set of standards regarding the implementation and realization of the right to development, which was contained in document A/HRC/WG.2/18/G/1.

73. The delegate of the European Union noted at the start of the discussion that it would make no change in its position. It would not comment on specific proposals and would maintain the same proposals that it had made previously. The representative of the Non-Aligned Movement spoke of the set of standards proposed by the Chair-Rapporteur as a way to move forward and fulfil the Group's mandate. The Movement was prepared to listen to proposals that had to be included and wanted the Working Group to work together with the Chair-Rapporteur and the Special Rapporteur. It also referred to the content in the draft set of standards presented by the Non-Aligned Movement. The draft contained provisions regarding full respect for international standards and cooperation between States, the removal of barriers, the implementation of the Sustainable Development Goals, in particular Goal 17, the responsibility of States to cooperate to eliminate injustice, cease unilateral coercive measures and respect for the political independence and integrity of States and the principle of non-interference.

74. The delegate of Japan made a reservation on the set of standards. Representatives from South Africa and the Plurinational State of Bolivia took the floor, with contributions by Associazione Comunità Papa Giovanni XXIII, speaking on behalf of the Forum of Catholic-inspired Non-governmental Organizations, Centre Europe-tiers monde and the Indian Council of South America. The delegate of South Africa mentioned that it would have been useful if the topic had been discussed in the panel discussions and agreed that the proposal by the Non-Aligned Movement and the criteria and subcriteria were equally important for moving forward. The delegate noted that placing the right to development into an international legal framework on par with other human rights was imperative and added that a Convention would create new momentum and complement the current human rights regime and was in line with the prevention mandate of the Council. The delegate of the Plurinational State of Bolivia reiterated the need for a legally binding treaty. Civil society organizations supported the need for a legally binding treaty and underlined that the basic reference document in that regard was the Declaration on the Right to Development. Civil society organizations also referred to a non-paper that they had submitted in the previous session on standards, items to be taken into consideration and inclusion of indigenous persons.

IV. Conclusions and recommendations

75. **At the final meeting of its nineteenth session, on 26 April 2018, the Working Group adopted by consensus the present conclusions and recommendations, in accordance with its mandate as established by Commission on Human Rights resolution 1998/72.**

A. Conclusions

76. **The Working Group expressed its appreciation to all those who had contributed to the proceedings of its nineteenth session.**

77. **The Working Group welcomed the presence of the United Nations Deputy High Commissioner for Human Rights at the session and took note of her opening remarks, delivered on behalf of the High Commissioner for Human Rights, in which she reiterated the full support of the Office of the United Nations High Commissioner for Human Rights for the Working Group and for the full realization of the right to**

development, as well as the enhancement of support from relevant bodies of the United Nations System for that purpose.

78. The Working Group welcomed the re-election of the Chair-Rapporteur and commended him for his able stewardship in guiding the deliberations during the session.

79. The Working Group expressed its appreciation for the interactive dialogue with the Special Rapporteur on the right to development.

80. The Working Group held discussions on the draft right to development criteria and the corresponding operational subcriteria in relation to the elaboration of a comprehensive and coherent set of standards for the implementation of the right to development, and held discussions on these standards.

81. The Working Group took note of the report of the Chair-Rapporteur entitled "Standards for the implementation of the right to development" and the proposal by the Movement of Non-Aligned Countries for a comprehensive and coherent set of standards for the implementation of the right to development.

82. The Working Group expressed its appreciation for the interactive dialogue on the implementation and realization of the right to development, including the implications of the 2030 Agenda for Sustainable Development and a possible engagement with the high-level political forum on sustainable development. In this regard, the Working Group took note with appreciation of the adoption of Human Rights Council resolution 37/24 on the promotion and protection of human rights and the implementation of the 2030 Agenda for Sustainable Development and resolution 37/25 on the need for an integrated approach to the implementation of the 2030 Agenda for Sustainable Development for the full realization of human rights, focusing holistically on the means of implementation.

83. Following the consideration of the draft right to development criteria and the corresponding operational subcriteria during its nineteenth session, the Working Group recognized with appreciation the preparation by the Secretariat of a conference room paper compiling the comments and views submitted by Governments, groups of Governments, regional groups and stakeholders on the draft right to development criteria and operational subcriteria (A/HRC/WG.2/18/CRP.1).

84. The Working Group took note of the paper prepared by the Chair-Rapporteur entitled "The right to development: finding a way forward" (A/HRC/WG.2/19/CRP.2), in which he identifies major challenges to the realization of the right to development.

B. Recommendations

85. The Working Group recommended:

(a) That the United Nations High Commissioner for Human Rights and his Office take sufficient measures to ensure a balanced and visible allocation of resources and pay due attention to the visibility and effective implementation and mainstreaming of the right to development by systematically identifying and undertaking tangible projects dedicated to this right, and that they continue to update the Human Rights Council and the Working Group on progress in that regard;

(b) That the Working Group continue to accomplish its mandate, through a collaborative process of engagement, in accordance with Commission on Human Rights resolution 1998/72 and other relevant resolutions of the Human Rights Council and the United Nations General Assembly;

(c) That the High Commissioner include in his next annual report an analysis on the realization and implementation of the right to development, taking into account existing challenges and making recommendations on how to overcome

them, and concrete proposals for supporting the Working Group in fulfilling its mandate;

(d) That the Working Group, taking into account Human Rights Council resolutions 9/3 and 36/9, take note of the discussions of the criteria and operational subcriteria, contained in conference room paper A/HRC/WG.2/18/CRP.1;

(e) That the Working Group, in its future deliberations, consider the contributions made by States at the national, regional and international levels to the implementation of the right to development and on the implications of the 2030 Agenda for Sustainable Development;

(f) That the Working Group invite the Special Rapporteur on the right to development, in consultation with Member States, to continue to contribute to the work of the Working Group in accordance with his mandate as established by Human Rights Council resolution 33/14;

(g) That the Chair-Rapporteur present the report of the nineteenth session of the Working Group to the General Assembly, including reporting on and promoting the integration of the right to development in the implementation of the 2030 Agenda.

Annex

List of participants

States Members of the Human Rights Council

Angola, Brazil, Burundi, Chile, China, Côte d'Ivoire, Croatia, Cuba, Ecuador, Egypt, Ethiopia, Georgia, Germany, Hungary, Iraq, Japan, Kenya, Mexico, Nepal, Nigeria, Pakistan, Panama, Philippines, Qatar, Saudi Arabia, Slovakia, Slovenia, South Africa, Spain, Togo, Tunisia, United Kingdom of Great Britain and Northern Ireland, Venezuela (Bolivarian Republic of), Zimbabwe.

States Members of the United Nations

Algeria, Argentina, Austria, Azerbaijan, Bahrain, Bangladesh, Bolivia (Plurinational State of), Botswana, Bulgaria, Colombia, Costa Rica, Democratic Republic of Congo, Estonia, France, Ghana, Greece, Guatemala, Honduras, India, Indonesia, Iran (Islamic Republic of), Jordan, Kazakhstan, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libya, Luxembourg, Madagascar, Malaysia, Malta, Morocco, Mozambique, Myanmar, Namibia, Romania, Russian Federation, Singapore, Sri Lanka, Sweden, Syrian Arab Republic, Uruguay.

Non-member observer States

Holy See, State of Palestine.

Intergovernmental organizations

European Union, Organization of Islamic Cooperation, South Centre, United Nations Conference on Trade and Development, United Nations Development Programme.

Non-governmental organizations in consultative status with the Economic and Social Council

General

Caritas Internationalis, Centre Europe-tiers monde, Congregations of St. Joseph, New Humanity.

Special

Associazione Comunità Papa Giovanni XXIII, Association Points-Coeur, Company of the Daughters of Charity of St. Vincent de Paul, Dominicans for Justice and Peace (Order of Preachers), Drépavie, Fundación Latinoamericana por los Derechos Humanos y el Desarrollo Social (FUNDALATIN), International Campaign to Abolish Nuclear Weapons (ICAN), Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco, International Movement of Apostolate in the Independent Social Milieus (MIAMSI), International Organization for the Right to Education and Freedom of Education (OIDEL), International Association of Democratic Lawyers, Teresian Association, International Volunteerism Organization for Women, Education and Development (VIDES).

Roster

Indian Council of South America (CISA).